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Bellagio, LLC*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

BRENDAN TANKERSLEY,

Plaintiff,

vs.

MGM RESORTS INTERNATIONAL, a
Foreign Corporation; and, BELLAGIO, LLC, a
Domestic Corporation,

Defendants.

Case No.: 2:20-cv-00995-RFB-DJA

**STIPULATION AND ORDER
TO EXTEND DISCOVERY
DEADLINES**

(THIRD REQUEST)

Defendant MGM Resorts International and Bellagio, LLC (collectively, “Defendants”), and Plaintiff Brendan Tankersley (“Plaintiff”), by and through their undersigned counsel, hereby stipulate and request that all deadlines set forth in the Joint Stipulation and Order to Amend the Scheduling Order (ECF No. 45), pursuant to FRCP 26(f)(3) and LR 26-3, be extended by 120 days to November 9, 2021. The current discovery cut-off date is July 12, 2021 but subpoenas, depositions, and other related discovery still need to be completed. The parties request a 120-day extension due to a death in the family for Defense counsel, and related travel and time away from the office for funeral services and family matters, as well as counsels’ respective litigation schedules, which, in particular for Plaintiff’s counsel, includes unavailability in July and August 2021 due to trial and trial preparation. This request is made in good faith, is not made to cause

1 delay, is submitted pursuant to LR IA 6-1, LR IA 6-2, LR 7-1 and LR 26-4 and is the parties' third
2 request.

3 **I. DISCOVERY COMPLETED TO DATE**

4 Plaintiff served Initial Disclosures on **August 7, 2020**; Supplemental Disclosures on
5 **August 25, 2020**; and on **December 14, 2020**.

6 Defendant served Initial Disclosures on **August 7, 2020**; Supplemental Disclosures on
7 **November 2, 2020**; on **November 30, 2020**; **December 18, 2020**; **March 26, 2021**, and on **May**
8 **17, 2021**.

9 Plaintiff served a First Set of Interrogatories and First Set of Requests for Production of
10 Documents on Defendants on **September 22, 2020**. Defendants responded to the Interrogatories
11 on **November 2, 2020**. Defendants responded to the Request for Production of Documents on
12 **November 2, 2020**, and supplemented its responses on **November 10, 2020** and **November 25,**
13 **2020**.

14 Plaintiff served a Second Set of Requests for Production of Documents on **December 8,**
15 **2020**. Defendants responded on **January 11, 2021**.

16 Plaintiff served an Amended First Set of Requests for Production of Documents on
17 **December 9, 2020**. Defendants responded on **December 28, 2020**.

18 Defendant served a First Set of Requests for Production of Documents and First Set of
19 Interrogatories on Plaintiff on **November 5, 2020**. Plaintiff responded to each request on
20 **December 14, 2020**.

21 Defendant served a Subpoena for production of Plaintiff's medical records on
22 Intermountain Healthcare on **February 23, 2021**.

23 Defendant served a Subpoena for production of Plaintiff's medical records on Dr. Bacala at
24 Quill Health on **March 2, 2021**.

25 Defendant served a Subpoena for production of Plaintiff's medical records on Reynolds
26 Plastic Surgery on **March 2, 2021**.

27 Defendant served a Subpoena for production of documents on Water Wings on **March 11,**
28 **2021**.

Defendant served a Subpoena for production of Plaintiff's medical records on Clinical Neurological Specialists **on March 22, 2021.**

Defendant served a Subpoena for production of documents on The College of Southern Nevada **on March 22, 2021.**

Defendant served a Supplemental Answer and Objection to Plaintiff's first set of Interrogatories **on March 26, 2021.**

Defendant served a Supplemental Response to Plaintiff's Amended first set of Requests for Production of Documents **on March 26, 2021.**

Defendant served a Subpoena for production of Plaintiff's medical records on Concentra on **June 7, 2021.**

Plaintiff served a Third set of Requests for Production of Documents to Defendant Bellagio on **May 24, 2021.**

Plaintiff served a Third set of Requests for Production of Documents to Defendant MGM Resorts International on **May 24, 2021.**

II. REMAINING DISCOVERY TO BE COMPLETED

The parties will complete discovery consistent with the Federal Rules of Civil Procedure, including by Rule 26(b), Rule 30, Rule 33, Rule 34, and Rule 36, such that the parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, subject to the limitations imposed by Rule 26(b)(2)(C).

The parties will finish supplementing and/or amending written discovery, respond to outstanding written discovery requests, and conduct further witness or person most knowledgeable depositions, which includes a request by Plaintiff's counsel for 11 depositions.

III. REASONS DISCOVERY CANNOT BE COMPLETED WITHIN THE DEADLINE

Defendant substituted in new counsel as of February 12, 2021 (ECF No. 40) and the parties held a meet and confer on March 2, 2021 to identify and resolve lingering discovery issues. Since that time, the counsel have tried to coordinate the depositions of Plaintiff's treating health care providers, including one who is retired, the Plaintiff, and Plaintiff has asked for 11 depositions.

This requires extensive scheduling. Unfortunately defense counsel experienced a death in the family, and will be out of the office mid-June for approximately 10 days, and Plaintiff's counsel's litigation schedule is such that she is not available in July and August, in part due to an upcoming trial.

IV. REVISED PROPOSED DISCOVERY PLAN

The parties propose to the Court the following cut-off dates:

A. Discovery Cut-off Date: The discovery cut-off deadline shall be **Tuesday, November 9, 2021.**

C. Dispositive Motions: Dispositive motions shall be filed by **Thursday, December 9, 2021**, thirty (30) days after the discovery cut-off date November 9, 2021, in accordance with LR 26-3.

D. Pretrial Order: The Pretrial Order shall be filed not later than **Monday, January 10, 2022 (as the 30 day falls on Saturday, January 8, 2022)** which is thirty (30) days after the deadline for filing dispositive motions date of December 9, 2021, in accordance with LR 26-1(b)(5). In the event dispositive motions have been filed, the Pretrial Order shall be suspended until thirty (30) days after a decision of the dispositive motions or further order of the Court.

E. Fed. R. Civ. P. 26(a)(3) Disclosures: The disclosures required by Fed. R. Civ. P. 26(a)(3), and any objections thereto, shall be included in the final pretrial order.

F. Extensions or Modifications of the Discovery Plan and Scheduling Order: In accordance with LR 26-4, any motion or stipulation to extend a deadline set forth in this discovery plan and scheduling order shall be received by the Court no later than twenty-one (21) days before the expiration of the subject deadline. A request made within 21 days of the subject deadline will be supported by a showing of good cause. Any stipulation or motion will comply fully with LR 26-4.

For all the reasons stated above, good cause exists to extend the discovery cut-off deadline in this matter.

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1 DATED this 16th day of June, 2021.

2 KEMP & KEMP

3
4 /s/ Victoria L. Neal

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11 *Attorneys for Plaintiff*

DATED this 16th day of June, 2021.

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,
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/s/ Suzanne L. Martin

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*Attorneys for Defendants MGM Resorts
International and Bellagio, LLC*

ORDER

12 IT IS SO ORDERED.



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE

DATED: June 17, 2021

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